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STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

June 13, 2008

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 07od-200

OAHU

Grant of Perpetual, Non-Exclusive Easement to Myrna Anne
Pualehua Kai for Access and Utility Purposes; Extinguishment
of Two (2) Rights of Access; Waialeale, Koolauloa, Oahu, Tax
Map Key: (1) 5-8-001:015 and road.

APPLICANT:

Myrna Anne Pualehua Kai, unmarried, whose mailing address is 58-
207H, Kamehameha Highway, Haleiwa, Hawaii 96712.

LEGAL REFERENCE:

Section 171-6 and 13, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Waialeale, Koolauloa, Oahu,
identified by Tax Map Key: (1) 5-8-001:015 and road, as shown on
the attached map labeled Exhibit A.

AREA:

To be determined by the Department of Accounting and General
Services, Survey Division.

ZONING:

State Land Use District: Agricultural
City & County of Honolulu LUO: AG-2

TRUST LAND STATUS:

Section 5(a) and (b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: YES _____ NO X

CURRENT USE STATUS:

Encumbered by Governor's Executive Order No. 3497, setting aside
to the City & County of Honolulu for Beach Park Purposes; and

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Grant of Easement (LOD 27020) to PSL Inc. for roadway and utility purposes.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain and repair a right-of-way over, under and across State-owned land for access and utility purposes.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

Not applicable. According to State Abstractor's report at Exhibit B, the property owned by the applicant, identified by tax map key (1) 5-8-001:021, is a kuleana.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No.1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing."

DCCA VERIFICATION:

Not applicable. The Applicant as a landowner is not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost; and
- 2) Process and obtain subdivision at Applicant's own cost.

REMARKS:

Grant of Easement

According to the title report provided by the applicant, her property, identified by tax map key (1) 5-8-001:021 does not have any legal access. As shown on Exhibit A, the subject private property is surrounded by State land set aside to the City & County of Honolulu for beach park purposes. University of Hawaii operates its Waialeale Experimental Farm on the adjacent State land under Governor's Executive Order No. 1848. Applicant intends to obtain a loan from the financial institution to renovate her

property. The lack of legal access does not allow her loan application to continue any further. Therefore, applicant requests the Board authorize the issuance of a perpetual non-exclusive easement to her for access and utility purpose to resolve the problem.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

Extinguishment of Two Existing Rights of Access

Pursuant to an agreement dated May 6, 1960, recorded at the Bureau of Conveyances by Liber 3831, page 213, the previous owner of the subject private property agreed to grant two (2) rights of access to the State of Hawaii. Such accesses are shown on the attached map at Exhibit C. The applicant requests the Board extinguish the rights of access as they restrict the utilization of the private property.

Pursuant to the 1960 agreement, "...upon construction by the State of a suitable access road servicing its adjoining lands or upon the development by the State of the adjoining lands, these Rights of Access shall automatically cease ... "

To date, the adjoining land has been set aside to the City & County of Honolulu for beach park purposes. It should meet the stipulation in the 1960 agreement regarding development of the adjoining lands. Department of Parks and Recreation has no objections. Therefore, staff does not have any objections to the extinguishment of the rights of access.

Department of Hawaiian Home Lands, Board of Water Supply, Department of Planning and Permitting, Department of Facility Maintenance, Department of Parks and Recreation, Division of Aquatic Resources, Office of Hawaiian Affairs, and University of Hawaii have no objections/comments on the request.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (1)5-8-001:021, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
3. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual non-exclusive easement to Myrna Anne Pualehua Kai

covering the subject area for access and utility purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:



- A. The standard terms and conditions of the most current perpetual easement document form, as may be amended from time to time;
 - B. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (1) 5-8-001:021, provided however: (1) it is specifically understood and agreed that the easement shall immediately cease to run with the land upon the termination or abandonment of the easement; and (2) if and when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document;
 - C. Review and approval by the Department of the Attorney General; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
4. Authorize the extinguishment of two (2) rights of access in favor of the State of Hawaii mentioned in the agreement dated May 6, 1960, recorded at the Bureau of Conveyances by Liber 3831, page 213, subject to the following:
- A. Review and approval by the Department of the Attorney General; and
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:

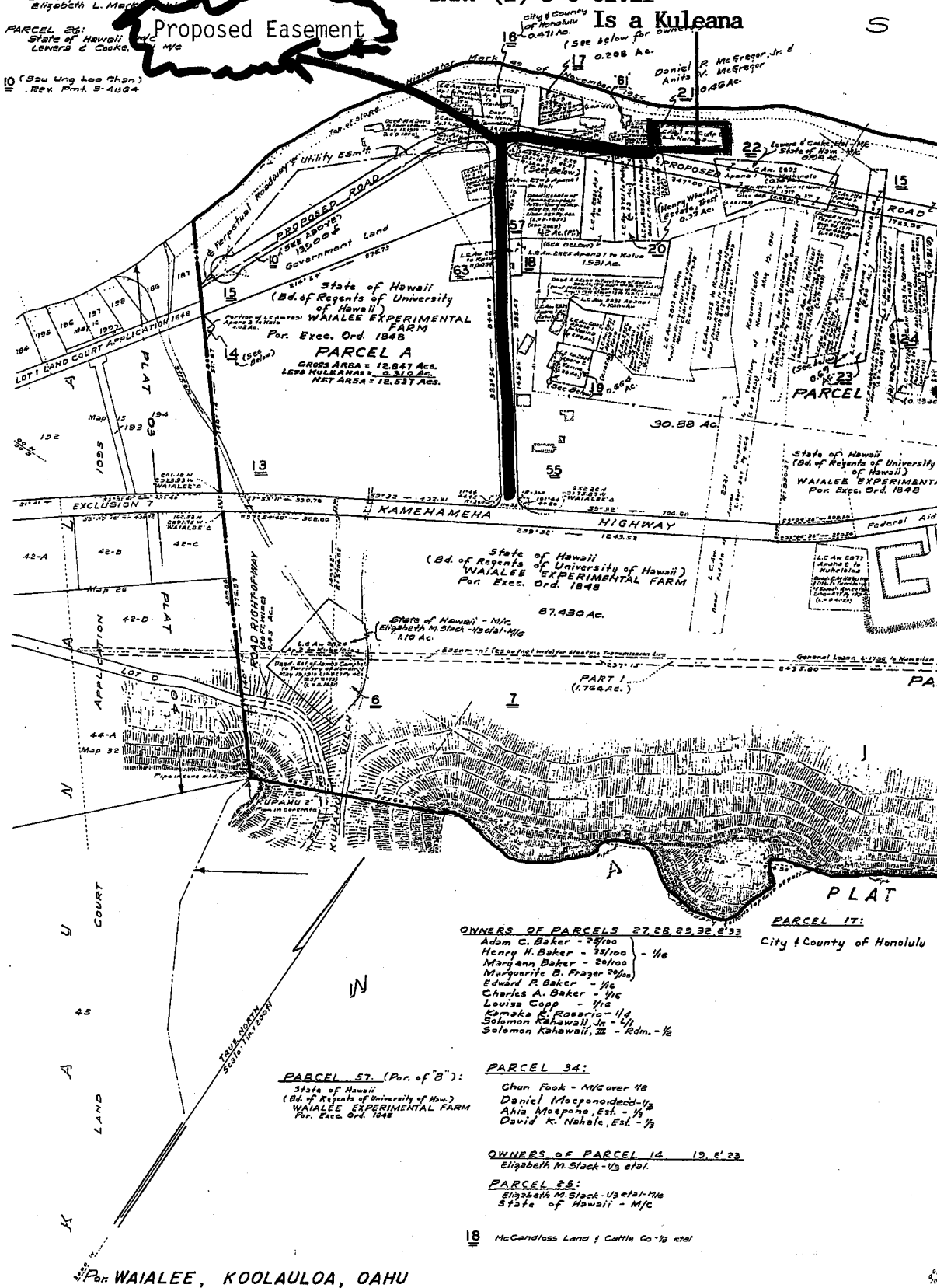

Laura H. Thielen, Chairperson 

Is a Kuleana

10 (Suu Ung Lee Chan)
Rev. Prof. S-4464

Proposed Easement

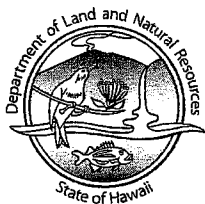
JAN 1 1962
JUL 1 1973
UN 6 1975
OCT 1 1979
NTV 1 1980
SEP 1 1981



DWG. NO. 1729 (Revised)
SOURCE: H.I.S. PLAT 2147-B
BY: HN/LN March 24, 1950

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EXHIBIT "A"



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

August 16, 2007

10286(O)

MEMORANDUM

TO: Barry W. Cheung, Oahu Land Agent

THROUGH: Russell Y. Tsuji, Administrator

FROM: E. Mahoe Collins, ~~State~~ Abstractor

SUBJECT: Kuleana Status of TMK: (1) 5-8-001:021

We have been requested to determine the kuleana status of the original source of title to the subject tax map key parcel (1) 5-8-001:021, identified thereon as being all of Apana 2 of Land Commission Award No. 2766 situate at Waialeale, Koolauloa, Oahu.

Records in the State Archives and the Land Division of the Department of Land and Natural Resources reveal that Land Commission Award 2766, dated October 18, 1854, adjudicated the claim of Naloloa to two parcels (Apana) of land. Apana 2 is the subject property of this memorandum.

The name Naloloa does not appear in the 1848 Mahele Book, indicating that the awardee did not receive his lands, as a konohiki, from Kamehameha III in the 1848 land division.

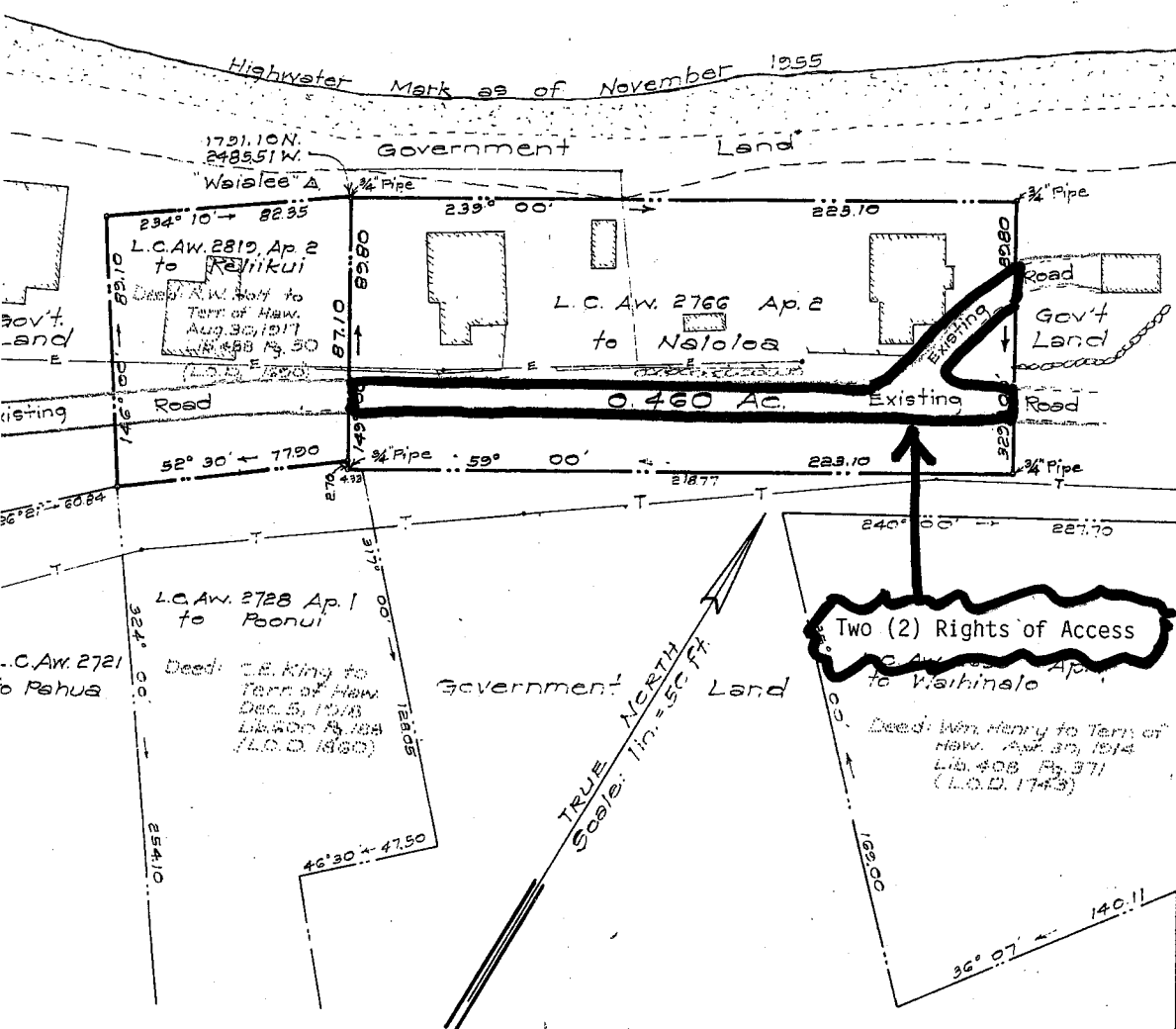
By the testimony of Mose to the Land Commissioners, given on January 16, 1850 and recorded in volume 11 at page 445, the claimant Naloloa received his lands from his wife's parents who received the said lands in the time of Kamehameha I, and possessed it without dispute.

We find that the subject property, a house lot situate in the Ili of Puunoni in the Ahupuaa of Waialeale, Koolauloa, Oahu, adjudicated as Apana 2 of Land Commission Award 2766 to Naloloa, dated October 18, 1854, is a kuleana.

If you have any questions, please feel free to call me at 587-0458.

Enclosure

EXHIBIT "B"



Plan showing adjustment of the location of
L.C. Aw. 2766, Apana 2 to Naloloa
Waialeale, Koolauloa, Oahu, Hawaii
Scale: 1 inch = 50 feet.
Surveyed by Robert T. Hashimoto April 7, 1960

It is hereby mutually agreed by the undersigned owners and parties at interest that the boundaries of L.C. Aw. 2766, Apana 2 to Naloloa as shown hereon are approved and accepted.

Donna K. McGee 5/6/60
Date
Emita Valerie McGee 5/6/60
Date
owners of L.C. Aw. 2766
Apana 2 to Naloloa

James M. Dunn 5/6/60
Commissioner of Public Lands Date
James M. Dunn 5/6/60
Surveyor-State of Hawaii Date

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Hashimoto's C.B. 11 F.B. 1667

ax Map: 5-8-01

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

R.T.H. Apr 7, 1960

EXHIBIT "C"